LEAGUE of UNITED LATIN AMERICAN CITIZENS

RICHMOND REGION / Council 4614

ENGLISH LEARNER HANDBOOK

For English Learner Families

in the

Commonwealth of Virginia

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Every Student Succeeds Act (ESSA) federally mandated school districts to identify English Learners, to assess English Learners annually, create programs for English Learners, and engage English Learner parents and family in their child's education.

Title VI of the Civil Rights Act of 1964

"No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

Implications for English Language Learners (ELLs) or Limited English Proficient (LEP) Students:

1. Students cannot be discriminated against due to language. ELLs/LEP students cannot be denied services, e.g., because the teacher does not speak the language.

2. Students cannot be refused enrollment due to Limited English Proficiency (LEP). Students are entitled to education in a public school until age 21.

3. Students cannot be retained due to Limited English Proficiency. Additionally, this means that as a practice Fs, Ds, or Us should not be given if English language ability prevents the students from performing the same as a native speaker of English. However, grading decisions are made at the school level and such variables as effort, participation, and attendance should be considered. Students cannot be expelled or suspended because of their limited English proficiency status.

Sign up here for VDOE English Learner Parent Newsletter

Introduction

In recognition of the need to strengthen and advance the Latinx community and educational partnerships in the Commonwealth of Virginia, *Richmond Region League of United Latin American Citizens 4614* (LULAC) has developed this *English Learner Handbook* with the intent to provide caregivers with a tool to assist in the advocacy of a quality and equitable education for students who are learning English as an additional language. This handbook provides a snapshot of student and family rights, which shall include federal, state, and local laws that govern English Learner (EL) programs in the Commonwealth of Virginia.

DISCLAIMERS

- This handbook is for informational purposes only and is not intended to provide legal advice.
- The information in this handbook is current as of January 2023.
- This handbook refers to K-12 public schools in the Commonwealth of Virginia. It is not intended to be used in reference to charter schools, private schools, post-secondary schools, or schools outside of the Commonwealth of Virginia.
- This handbook does not include all rights, laws, or policies. It is recommended that families also read and understand their local school board policies and school codes. A copy of local policies may be found on the school district's website, at the school district's central office, or at individual schools. Should families feel that their rights have been violated, it is recommended that a member of the Richmond Region LULAC be contacted for further support.

Basic Rights

English learners have the same rights as all students, as well as additional rights and protections. Below is an overview of the rights of English learners and their families, legal guardians, or caregivers:

- The right to attend school and have the right to a free public education**,** *Plyler v. Doe***,** 457 U.S. 202 (1982);
- English learners have the civil right to be taught both English and grade-level content without being segregated from their classmates;
- Schools are required to provide families of English learners with an annual update of their child's English language development;
- Parents have the right to refuse English learner instruction.
- Schools are required to ensure there is appropriate communication with families and in a language they can understand. Families have the right to request a **certified** interpreter at school meetings and to have official documents translated into a language they can understand at no cost to the family;
- English learners have the right to participate in all special programs including, but not limited to, advanced courses (honors, Advanced Placement, International Baccalaureate, speciality schools), talented and gifted programs, and special education.

Enrollment

Families should be prepared with the following required documents when registering their child:

Birth Certificate

According to § 22.1-3.1 of the *Code of Virginia*, a birth certificate is required when a child is enrolled for the first time in a Virginia public school; photo copies are not accepted. However, if you do not have a **certified copy of the child's birth certificate, you may submit an affidavit explaining why a certified birth certificate is not available and indicates the child's age.** (see **Office of Civil Rights response to RPS, July 2014**) In an effort to prevent child abduction and human trafficking, schools are obligated to contact local law enforcement and share the documents submitted that prove the child's identity, age, and reason for not being able to provide a certified copy of a birth certificate.

Proof of Current Address

According to § 22.1-4.1 of the *Code of Virginia*, you can provide a lease, deed, or postmarked utility bill as proof of residency. If the child does not have a permanent place of residence, the school can use its discretion to determine if an alternative form of address is appropriate; the child may qualify to be classified under the McKinney-Vento Act.[1]

Immunizations

According to § 22.1-271.2 of the *Code of Virginia*, you must provide proof of immunization when enrolling your child. Students who are homeless, in foster care, not fully immunized (but intend to complete the immunization process), or are from a military family, may enroll under conditional enrollment. You may be exempt from having your child immunized for religious beliefs. You can also provide an official letter indicating that an immunization may be harmful to your child's health from a licensed doctor or health department. **At the writing of this manual, COVID 19 vaccination is not an enrollment requirement in Virginia Public Schools** Click here for updated information from the Virginia Department of Health's required public school immunizations.

A child may not be denied enrollment based on immigration status and schools may not ask about the child's, or the child's family immigration status in order to register.[2]

[1] The McKinney-Vento Act is a federal law that gives homeless or children who do not have a permanent address, the right to immediately enroll and attend school even if all required documents are not available. Schools cannot deny or delay immediate enrollment to a school due to transportation; residency requirements; and other documentation requirements, such as birth certificates or medical records. Unaccompanied children residing in any form of temporary housing may also qualify to be protected under the McKinney-Vento Act.

[2] The United States Supreme Court case, *Plyler v. Doe*, 457 U.S. 202 (1982): If a student is undocumented or not a citizen of the United States, the student still has a right to receive a public education.

Identification and Placement

English Learner Identification and Placement[3]

Home Language Survey

You are required to complete a Home Language Survey (HLS), (*English Learner Toolkit*, 2016, p.2) when registering your child. The HLS will let the school know if your child communicates in a language other than English at home and if they should be screened for English language support services.
You have the right to receive the HLS in a language you can understand. If you need help in completing the HLS, you can request interpretation(speaking) and translation(written) services free of charge.

Eligibility

If your responses to the HLS indicate that your child communicates in a language other than English at home, the school will give the child a test to determine if they are eligible for Language Instruction Educational Program (LIEP)/English as a Second Language(ESL) services.[4] Virginia uses the scores from the *WIDA SCREENER* to determine if a student is eligible or ineligible to receive LIEP/ESL services (see Appendix A for eligibility scores).
Students who enroll at the beginning of the school year must be tested **and** the family must be notified in writing indicating if the student is eligible or ineligible for LIEP/ESL services within **30 calendar days** of enrollment.
Students who enroll after 30 days of the beginning of the school year, the school has **14 calendar days** to test the student and inform the family if the student is eligible or not eligible for LIEP/ESL services.[5] The notification must also include your child's English language proficiency level and inform you of your right to refuse LIEP/ESL services.

Presumptive ELs

If your child is presumed to be in need of LIEP/ESL services and the screening process has not started or has not been completed, your child may be temporarily placed in a LIEP/ESL program until the screening process is complete. Presumptions may not be based on name, place of birth, or other discriminatory factors. You must be notified in writing that your child will be temporarily placed in the LIEP/ESL program.

Transfer Students From Other Countries

School districts in the Commonwealth of Virginia are obligated to determine if a diploma or transcript from another country is comparable to Virginia's diploma requirements.[6] If your child transfers to a Virginia public High School from a High School in another country and is 18 or 19 years old, they are eligible for enrollment and must be informed about all programs that will lead to receiving a diploma. English Learners who are 21 years-old and turn 22 during the school year, are eligible to continue as a public school student until the end of the school year.

> Students have the right to attend classes immediately after completing the registration process. Under no circumstance should a student not be admitted to classes immediately after the registration process has been completed.

[3] Visit the VDOE Identification and Placement Guide for more information.

[4] LIEP- Language Instruction Educational Program also known as English as a Second Language (ESL). The goal of these programs is to increase English language proficiency by providing effective language instruction by a highly qualified certified teacher. See page 10 of this handbook for more information about LIEP/ESL programs.

[5] The ESEA section 3113(b)(2) mandates that all states that receive Title III grants (federal funds given to states for EL program support) create and implement standardized entrance and exit procedures for LIEP/ESL programs and requires that that all students who may be ELs are tested within 30 days of enrollment (14 days after the first 30 days of the start of school).

[6] VDOE has additional information about students who transfer from other states, other districts in Virginia, and other countries.

Eligibility Tests (Screening)

If your responses on the HLS indicate that your child's primary language is not English, they will be screened with the *WIDA Screener for Kindergarten* or *WIDA Screener* to determine if they are eligible for LIEP/ESL services. The screener will also measure your child's English language proficiency level.

Kindergarten and 1st Grade

If your child registers for Kindergarten during the summer or 1st semester(fall), they will take the Listening and Speaking portion of the *WIDA Screener for Kindergarten* to determine if they are eligible for LIEP/ESL services. Students who score 4.5 or below are eligible for services

Kindergarten students who register during the 2nd semester (spring), and 1st grade students who register during the 1st semester(fall) will take the Listening, Speaking, Reading, and Writing portions of the *WIDA Screener for Kindergarten*. Students who score 4.5 or below are eligible for services.

WIDA Screener: Grades 1-12

2nd semester grade 1 through grade 12 students will take the Listening, Speaking, Reading, and Writing portions of the *WIDA Screener* to determine if they are eligible for LIEP/ESL services. Students who score 5.0 or above **are not** eligible for LIEP/ESL services. Students who score 4.5 or below **are** eligible for LIEP/ESL services.

Students with the Most Significant Cognitive Disabilities

As of February 2023, WIDA does not offer a screening test for students with significant cognitive disabilities. If your child has a disability that is documented on their Individual Education Plan (IEP)[7] or 504 Plan,[8] they have the right to use accessibility supports and accommodations on the *WIDA Screener*. The IEP Team and EL Committee must determine which accommodations are allowed and would be most appropriate; for example, read alouds are not permitted for WIDA assessments (*WIDA*, 2022, p.9). You are encouraged to participate in this decision making process.

Transfer Students

It is important for families to inform schools during registration, if the student has previously participated in a LIEP/ESL program, was tested for LIEP/ESL eligibility from another school, or has exited from a LIEP/ESL program. Giving this information will prevent unnecessary testing and a delay in providing appropriate language support for your child.

Erroneous Placement

If you believe your child has been erroneously identified as an English Learner, you may have them removed from the LIEP/ESL program; the district is obligated to correct the error.[9] For example, if accommodations on the *WIDA Screener* were not provided to a student with a disability, the student could be re-tested with appropriate accommodations. If the results of the screener, with accommodations, show that the student is not an EL, the EL designation can be removed.

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[7] An Individual Education Plan (IEP) is for students who have a specific disability and require special education services.

[8] 504 plans are for children with special needs who do not want or qualify for special education services. The 504 allows special needs children to receive services and modifications that will help the child be successful.

[9] For additional information on erroneous placement, visit: Addendum to September 23, 2016 Non-Regulatory Guidance: English Learners and Title III of the Elementary and Secondary Education Act (ESEA), as Amended by the Every Student Succeeds Act (ESSA), p.3

Screening is Complete

When screening is complete, you must be informed in writing and in your preferred language of communication, your child's screening score (English language proficiency level), if your child is eligible or ineligible for LIEP/ESL services, and your right to refuse LIEP/ESL services should your child be identified as needing services. You also have the right to request that information be provided in a **form you understand**, such as sign language or verbally.

Each district in Virginia public schools may offer different language support programs and different mandated service hours. Schools should take into consideration your child's previous time in school and first language literacy when deciding which services are appropriate and will meet the needs of your child. You have the right to ask about all services available.

Federal Compliance

- All potential ELs must be assessed with a valid and reliable assessment to determine if they are in fact ELs.
- Parents and guardians must be informed in a timely manner of their child's ELP level and EL program options.
- LEAs* are required to communicate information regarding a child's ELP level and EL program options in a language the parent understands.

*LEA Local Education Agency(the district)

Continued Program Eligibility

WIDA ACCESS for ELLs® 2.0

All English Learners (including Opt-Out ELs)[10] in grades K–12 will be scheduled (usually from mid-January to March) to take the *WIDA ACCESS FOR ELLs® 2.0*, also referred to as the *WIDA or WIDA ACCESS.* The *WIDA* helps the school monitor the progress of your child's English language development and provide appropriate instruction and services.

Students **must** take the *WIDA SCREENER* **before** they take the *WIDA ACCESS.* Depending on the date of enrollment, date of the *WIDA Screener*, and the *WIDA ACCESS* testing window, your child may not have to take the *WIDA ACCESS* for that year. Some schools have *WIDA ACCESS* cut-off dates to prevent excessive testing. You must be informed in writing and in your preferred language of communication, if your child will take the *WIDA ACCESS*.

English Learners with Disabilities that Cannot Participate in ACCESS for ELLs® Testing

Kindergarten ELs with Significant Cognitive Disabilities (Virginia ELP Checklist K)

At this time, *WIDA* does not have a language proficiency test for Kindergarten ELs with **significant** Cognitive Disabilities. If your child has a **significant** cognitive disability, they may be eligible to take the *Virginia ELP Checklist K*. The EL committee and the IEP/504 team will determine if your child is eligible to take the *Virginia ELP* Checklist K. You have the right to participate in this decision making process.

Grades 1-12: English Learners with Significant Cognitive Disabilities

If your child is in grades 1-12 and has a **significant** cognitive disability, they may be eligible to take the Alternate ACCESS for ELLs®. Eligibility for ELs to take the *Alternate Access for ELLs* may be based on the student's participation in the Virginia Alternate Assessment Program (VAAP). The IEP team and EL Committee should collaborate to determine if the student is eligible for the *Alternate ACCESS for ELLs*. Families have a right to participate in this decision making process.

Grades K-12: English Learners with Hearing and Visual Impairments (*Virginia ELP Checklist K-12*)

If your child is in grade K-12 and has a hearing and/or visual impairment, they may be tested with the Virginia ELP Checklist K-12. The EL committee and the IEP/504 team will determine if the student qualifies to be assessed with the Virginia ELP Checklist K-12. You are encouraged and have a right to participate in this decision making process.

If a student is unable to take one or more of the 4 components of the *WIDA screener* or *WIDA ACCESS* due to a disability that is documented in the student's IEP or 504 plan; and there are no appropriate accommodations for the component(s), the IEP or 504 team is obligated, under Federal Civil Right laws, to assess the student on the remaining components only (see Appendix C for domain exemptions). The Virginia Department of education is responsible for setting a revised score that measures the English language proficiency and an exit score based on the components completed[11].

[10] See page 12 in this handbook for the definition of an Opt-Out EL

[11] Visit Addendum to September 23, 2016 Non-Regulatory Guidance: English Learners and Title III of ESEA, as Amended by ESSA (PDF) (p.5) for specific information about non-verbal students.

Exiting the LIEP/ESL Program

Once your child takes the *WIDA Screener* and participates in a LIEP/ESL program, they can only exit the program by taking the *WIDA ACCESS 2.0* and receiving an exit score of 4.4 or above. A score of 4.4 or above indicates that the student has reached English language proficiency and can exit the LIEP/ESL program (see Appendix B for LIEP/ESL eligibility and exit scores for the Commonwealth of Virginia).

Language Instruction Educational Programs (LIEP) also known as /English as a Second Language (ESL)

Basic LIEP Requirements

Title III of the ESEA (p.18) expects LIEP/ESL programs to be **effective**. The basic goals of LIEP/ESL programs are to:

- Increase the English proficiency of your child with an effective LIEP/ESL program that meets the needs of your child (ESEA Section 3115(c)(1) (p.13);
- Provide your child the same educational opportunities as all children and the opportunity to participate in all curricular and extracurricular activities;[12]
- Provide LIEP/ESL instruction by a **licensed/endorsed** LIEP/ESL teacher;
- Avoid unnecessary segregation of ELs.[13]

Basic LIEP/ESL Instruction

- Your child should receive modified instruction based on WIDA's reading, writing, listening, and speaking levels, the Virginia Standards of Learning(SOL) if applicable, and other district and classrooms assessments;
- Your child should receive instruction that is inclusive and respectful of their cultural background and language;
- Instruction must include appropriate modifications and strategies that will develop your child's English language skills and learn the content.
- Your child's language and academic progress should be shared with you throughout the school year. You have the right to request, review, and discuss the progress of your child with teachers, counselors, or school leaders.

[12] Under Title VI of the Civil Rights Act of 1964 and the Equal Education and Opportunities Act(EEOA), federal policies prohibit discrimination based on race, color, sex, or national origin.

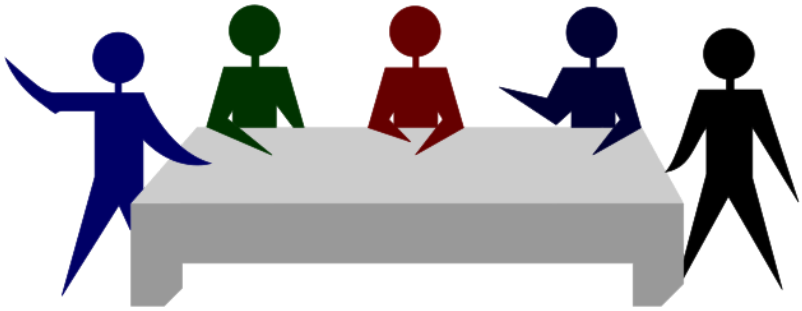
[13] Programs, such as Newcomer or Bilingual, may temporarily provide separate instruction to students that will be in the best academic and linguistic interest of the student. Segregation in classes or activities such as recess, lunch, specialty courses (art, gym, music etc.) is not allowed.

The EL Committee

Public schools in Virginia are required to have an EL committee. The El committee determines all instructional and testing accommodations and modifications. The El committee also determines if the student is eligible for exemption from **school and state** assessments, and if the exemption is appropriate. **You have the right to participate as a member of the El Committee.** You may also request to meet with the El Committee, at any time, to discuss the linguistic progress and academic performance of your child. The EL committee is responsible for providing all teachers, administrators, testing coordinators, counselors, and families with a copy of the English Learner Education Plan[14]. Accommodations must be applied to **all** classroom, district, and state assessments. All teachers providing instruction to ELs must provide modifications and accommodations for all classroom instruction as indicated in the EL Plan

The following people are expected to participate as members of the EL committee:

- At least one classroom teacher
- LIEP/ESL teacher
- Building administrator (school counselor or reading specialist may serve as designee)
- Title III Coordinator (not mandatory)
- Parent or guardian (may only participate as a member representing their child)
- English Learner, if appropriate; for example, middle or high school students.



[14] The EL Plan is unique for each individual English Learner. The name of the Plan may be different in each district. A basic EL Plan should include the Els latest WIDA score, testing accommodations and exemptions, and instructional modifications.

EL Subgroups

Newcomers

Newcomers are students who were born outside of the United States(U.S.) and have recently arrived (usually within 12 months) to the United States. Some districts identify newcomers as also having a WIDA score of 1.0 - 2.0. If your child leaves a U.S school after six months of enrollment, and returns the following school year, the first six months would be counted towards your child's time in school. Only months in which school is in session will count toward the 12 months. For example, summer vacation is not included in the 12 months.

Depending on the school district, newcomers who need LIEP/ESL services, may be offered placement in a specialized program such as Newcomer or Dual Language.[15] If the Newcomer program is out of your child's school zone, the district is obligated to provide transportation that does not delay attending classes.

Some newcomers may be fluent in English and do not require LIEP/ESL services.

Opt-Out EL

You have the right to refuse LIEP/ESL services. If you do not want your child to receive LIEP/ESL service, you must inform the school in writing. You can write a letter in your preferred language and can request an interpreter/ translator to assist with this process, at no cost to you. When you refuse LIEP/ESL services, your child will be classified as an **Opt- Out El** and will not receive LIEP/ESL services, but should receive academic progress monitoring reports from teachers or school counselors. Opt-Out ELs are considered English Learners, and are expected to take the *WIDA ACCESS for ELLs® 2.0*. each year until they exit.

If your child is an Opt-Out EL and struggles academically (due to language) and was provided all interventions, you have the right to request, in writing and at any time, that your child begin to receive LIEP/ESL services and no longer be classified as an OptOut EL.

Dually Identified ELs

If your child is an EL and has an IEP or 504 plan they will be classified as a **Dually Identified EL (DIEL)**. The IEP team can not remove LIEP/ESL services. DIELs are eligible to use all EL,[16] IEP, and 504 accommodations and receive services from both programs.

If your child enrolls in a Virginia school with an IEP from another state or country, the IEP will be evaluated by the school's IEP **and** EL committee **within 10 days of enrollment**. The school is obligated to have all IEPs and IEP related documents that are presented in a language other than English, translated to English within 10 days of receiving documents. The school is also obligated to provide a **trained and qualified interpreter** for all IEP meetings. You have the right to ask for an interpreter(speaking) and have all documents translated(written) to a language that you understand at no cost. **Personnel who have not been trained as professional interpreters may not be used to interpret at IEP meetings.** If a person who has not been trained **and** vetted by the district, is used to interpret at any official school meeting, the communication from the meeting may be considered invalid. Children are not allowed to interpret at meetings.

[15] Dual Language programs include students who are not and have never been ELs, and whose primary language is English, with ELs who share the same primary language. Instruction is provided in English and the Els primary language.

[16] WIDA does not allow English Learner accommodations to be applied to WIDA assessments.

Long Term ELs

Long Term Els (LTEL) in Virginia are students who have completed 5 or more consecutive years of LIEP/ESL service. If your child is an LTEL and has not made expected language or academic progress, you have the right to request additional support services and to request a meeting to discuss your child's academic performance. You are encouraged to review all assignments and assessments that show the academic performance and language progress of your child.

English Learners below grade 4, may not be identified as Long-Term ELs

Former Els

If your child takes the *WIDA ACCESS 2.0* and scores a 4.4 or higher on a Tier B/C test they can exit the LIEP/ESL program and will be classified as a Former EL (FEL). You must receive an official *WIDA ACCESS* report and an exit letter, in your preferred language, indicating that your child has exited the program and will no longer receive LIEP/ESL services. Score reports and exit letters should be received **within 10 days of receiving WIDA 2.0 score reports**. WIDA score reports are usually available in June.

Former Els will have their academic progress monitored for 2 years and will receive monitoring reports to track the progress of your child without the use of LIEP/ESL supports. Districts are responsible for sharing the FEL progress reports with you throughout the year. You have the right and are encouraged to request and discuss monitoring reports.

If your child begins to struggle academically after exiting the program, the EL committee will meet to discuss what additional supports the student should receive. You must be informed in writing and you have the right and are encouraged to participate in all meetings that may make program changes.

Re-entry El

If your child is a FEL and is not making progress (due to language) the EL committee may consider additional supports, a child study, or having your child re-enter the LIEP program.

Your child must be re-assessed with an approved, grade-appropriate English Language Proficiency assessment, (Virginia recommends the *WIDA MODEL*) to determine if language is the reason the student is struggling. Schools must offer additional and appropriate language services as needed. If the results of the re-test indicate that your child is eligible for LIEP/ESL services, the school must offer the student re-entry into the LIEP/ESL program. You must consent in writing that you agree to re-entry into the LIEP/ESL program.

Students with Limited or Interrupted Formal Education (SLIFE)

The Commonwealth of Virginia defines a SLIFE as an English learner who:

- Enters or re-enters any school in the United States at or after the age of eight; and
- has an English Language Proficiency 1 or 2 as measured by*WIDA*; and
- has at least two years less schooling than peers at a similar age.

If your child is considered a SLIFE, they should receive additional and appropriate language and academic supports.

You have the right and are encouraged to participate in all meetings and discussions that may change your child's instructional plan, increase or decrease support services, and affect your child's academic and language performance.

Grade Level Placement

In compliance with the *Civil Rights Act of 1964*, ELs must be placed in the grade levels recommended for all students who enroll in a Virginia public school (see Table 1). It is the responsibility of the district to give your child additional language and academic supports if they have limited or no experience in a school system before arriving to the United States. Programs may include, but are not limited to, before or after school language support classes or academic intervention services.

Age by September 30	Grade
4	Prekindergarten
5	Kindergarten
6	Grade 1
7	Grade 2
8	Grade 3
9	Grade 4
10	Grade 5
11	Grade 6
12	Grade 7
13	Grade 8
14	Grade 9
15	Grade 10
16	Grade 11
17	Grade 12

Table 1: VDOE Grade Level by Age

Grade Retention

If your child is recommended for retention, a referral must be submitted to the El committee and you must be informed in writing in your preferred language or form of communication. You have a right to participate in making decisions regarding your child being considered for retention. It is important to make sure that you, the EL committee, and the teacher recommending retention, meet to discuss if retention is in the best interest of your child, and does not violate any Civil Rights laws. The EL committee and classroom teacher should review the following guidelines when considering retention:

- Has there been communication with the family throughout the course of the school year to discuss the student's academic progress or challenges?
- Have all teachers who provide instruction and support to your child provided appropriate accommodations; modified assignments, instruction, and assessments that meet the English language proficiency level of the student?
- Does the student have excessive absences? Has the family been contacted regarding these absences?
- Does the student complete assignments that are appropriately modified and accommodated?
- Does the student show no progress with appropriate modifications and accommodations?
- Have all appropriate interventions and supports been applied and has progress been monitored?

According to ***Title VI of the Civil Rights Act of 1964***, it is a violation if Limited English proficient (LEP) students are retained in grade for failure to demonstrate basic skills in English. The same policies that apply to all students in the school system regarding age-appropriate grade placement should also be followed for LEP students.

Gifted and Talented, Specialty Schools, and Alternative Programs

Regardless of your child's English language proficiency level, they have the right to participate in all specialty programs, continue to receive LIEP/ESL program support, provided modified instruction and assessments, and may continue to receive EL accommodations. If you would like your child to participate in a specialty program, you may contact the child's teacher, guidance counselor, or a school leader.[17]

Providing Meaningful Access to All Curricular and Extracurricular Programs

EL students must have access to their grade-level curricula so that they can meet promotion and graduation requirements. EL students are entitled to an equal opportunity to participate in all programs, including pre-kindergarten, magnet, gifted and talented, career and technical education, arts, and athletics programs; Advanced Placement (AP) and International Baccalaureate (IB) courses; clubs; and honor societies.

Fact Sheet, Ensuring English Learner Students Can Participate Meaningfully and Equally in Educational Programs (Jan. 2015)

Program evaluation is required to gauge success. Qualified ESL personnel must be employed to implement program. Specific program exit criteria must be in place. Systems cannot screen out LEP students for Gifted and Talented programs.

Office of Civil Rights Enforcement Policy (1991)

[17] Visit https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-el-students-201501.pdf (p.3) for more information on participation in special programs.

Virginia SOL Assessments

Virginia Standards of Learning(SOL) Assessments, grades 3-8

Grade	SOL Assessment
3	Math, Reading
4	Math, Reading, Virginia Studies
5	Math, Reading, Science
6	Math, Reading
7	Math, Reading
8	Math, Reading, Science, Civics

Exemptions are not available For Math or Science SOL or VGA

Available Exemptions

SOL	Exemptions
READING **Grades 3-8**	ELs in grades 3-8 who have been in a United States school for less than one year are eligible for a **one-time exemption** from the Virginia Reading SOL assessment.
VIRGINIA STUDIES **Grade 4**	A **one-time** exemption available for all Els
CIVICS **Grade 8**	A **one-time exemption** available for all Els. Not available if exemption was used for the 4th grade Virginia studies.
MATH and SCIENCE	There are no exemptions for Math and Science

Exemptions are not available for End-of-Course (EOC) Reading

ASSESSMENTS and ACCOMMODATIONS

NON-WIDA ASSESSMENTS

READING: Virginia Growth Assessment[18] (VGA) and Standards of Learning[19] (SOL)

Grades 3-8 Exemptions and Accommodations

Recently Arrived/ Newcomers

If your child is a newcomer/recently arrived EL, they may be eligible for accommodations and exemptions on the reading VGA and SOL assessments. Recently arrived ELs who have been enrolled in schools in the U.S. (not including Puerto Rico and the outlying areas) for less than 12 cumulative months (not including summer vacation) are **eligible for a one-time SOL reading exemption in grades 3-8 and are also eligible for exemptions on the fall and winter Reading Growth Assessments, grades 3-8.**

Dually Identified ELs

Dually Identified ELs have a right to have all diagnostic and other evaluation tests used to determine a disability, administered in the child's first language and in a form most likely to provide accurate information on what the child knows and can do academically, developmentally, and functionally. The IEP Team and El Committee must work collaboratively to ensure that a DIEL (including Opt-Out Els) is provided with **all** appropriate exemptions and accommodations as indicated on their IEP, 504 and EL Plan. (EL Plan accommodations do not apply to WIDA ACCESS).

Special consideration and approval from the district can be given that will allow a Speech Language Pathologists (SLP) to administer an assessment in order to provide students who use non-verbal devices or are hearing impaired, with appropriate testing conditions and administration.

Struggling ELs

Testing may be discontinued for ELs who have had sufficient time to answer items on the Reading SOL and VGA but show signs or indicate that they are unable to complete more items. They will not be counted as taking the tests. Students who answer at least five items (not including the samples) will be counted as taking the SOL or VGA Reading test.

Former ELs

1 and 2 years after exiting

ELs who exit LIEP/ESL program are classified as Former ELs (FELs). They are eligible for EL accommodations and exemptions for 2 years after exiting. FELs must have their academic progress monitored and will have monitoring reports that will document their academic performance. You have the right to review and discuss the monitoring report of your child.

For more information on Accommodation and Assessments for English Learners, please visit: the Virginia Department of Education's Examiner's Resource Guide.

[18] English Learners have a right to exemptions and accommodations on the Virginia Assessment Program

[19] ELs have a right to exemptions and accommodations on the Virginia Standards of Learning assessments.

Websites

Policy and Civil Rights

Colorin Colorado, Guide for families

Dear Colleague Letter 2015: Supreme Court decision

English Learners and Title III

English Learner Family Toolkit

English Learner Toolkit, U.S. Department of Education

Equal Opportunity for English Learners, U.S. Department of Education

Fact Sheet for families and parents who do not communicate in English

Fact Sheet II: Additional Questions and Answers on Enrolling New Immigrant Students

Fact Sheet: Meaningful and Equal Participation in Educational Programs

Newcomer Toolkit, United States Department of Education

Schools' Civil Rights Obligations

Special Education and English Learners, Colorin Colorado

Special Education, Parent Education Advocacy

VDOE EL Family Newsletter

Discrimination in Public Schools, Dept. of Justice/Office of Civil Rights

Testing

September 23, 2016 Non-Regulatory Guidance: English Learners and Title III

SOL Test Administration and Development

Spring 2023 Test Implementation Manual

Virginia Growth Assessments

Virginia SOL Assessments

Virginia Assessments Program 2023

Virginia Standards of Learning (SOL)

VDOE 2023 Examiner's Resource Guide

Appendix A: WIDA Screener Eligibility Scores

Virginia English Language Learner Identification and Placement Guidance Document 2022-23

Initial Assessment and Identification

Identification/Placement Criteria

Recommended screening criteria are provided in *Superintendent's Memo 149-21: Required Entrance Procedures and Criteria for Identifying Potential English Learners*. The Department *recommends* the criteria below for EL identification.

Grade	Screening Tool	Domains	Levels indicating Student is an EL
Rising Kindergarten (summer) through Kindergarten 1st semester	WIDA Screener for Kindergarten	Listening and Speaking	Oral Language Below **4.5**
Kindergarten 2nd semester (and 1st semester of first grade)	WIDA Screener for Kindergarten	Listening, Speaking, Reading, Writing	Overall Language Below **4.5**
Kindergarten 1st semester	WIDA MODEL	Listening and Speaking	Oral Language Level less than **5.0**
Kindergarten 2nd semester through 12th grade	WIDA MODEL	Listening, Speaking, Reading, Writing	Overall less than **5.0**
Grade 1 - 12	WIDA Screener (online and paper)	Listening, Speaking, Reading, Writing	Overall less than **4.5**

Other Useful Resources or Information

Student Transfers: If it is determined that the student was administered an English language proficiency test while enrolled in a previous school, then staff should seek to obtain test results from the sending school to determine the student's EL status.

If a Home Language Survey was completed in another Virginia public school prior to enrolling at the current school, then staff should compare the response on the two forms for consistency. If inconsistencies are found, staff should determine if the student should be progressed to the language screening process.

Appendix B: WIDA English Language Proficiency Levels

Proficiency Level	English Acquisition Stage	Services
1-1.9	Entering	Eligible for direct language support services
2-2.9	Emerging	
3-3.9	Developing	
4-4.3	Expanding	
4.4	(4.4 = exit)	Exited and will no longer received direct services. Eligible for EL accommodations and progress monitoring for 2 years. Categorized as a Former El (FEL)
5	Advanced	
6	Proficient	